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ABSTRACT

This paper offers guidelines to colleges and universities which must comply with requirements of the Student Right-to-Know and Campus Security Act of 1990, specifically Title II, Crime Awareness and Campus Security. An introduction outlines some measures that campuses are urged to adopt such as campus-wide committees to review security policies, emergency response teams, and safety and security education and awareness programs. Following this, a section headed "Making the Law Work for You" details the compliance requirements and timetable. A section titled "Definitions" quotes from the statute and explains definitions of specific terms in the act such as "campus", "student", and "employee," and also defines crimes covered by the act. The final section offers answers to 13 frequently asked questions such as: "When should the timely reports on crimes considered a threat to other students and employees be disseminated? " "What information is to be included in the annual security report?" "How can campus security personnel collect data on crimes committed outside their jurisdiction?" and "What are the implications for institutions with campuses abroad?" Fourteen further resources are listed. (JB)

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COMPLYING WITH THE CAMPUS SECURITY ACT — 1990

Title II – Crime Awareness and Campus Security

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Introduction

In November 1990, the **Student Right-to-Know and Campus Security Act** *was signed into law (Public Law 101-542). The implications of the law will affect, to some extent, all postsecondary institutions that receive federal financial assistance. More importantly, it will involve the entire campus community, not just the safety and security organization, in responding to crime incidents on campus.*

The U.S. Department of Education will issue two 'Dear Colleague' letters this spring. The department also plans to issue a Notice of Proposed Rule Making in September 1991 and final regulations are expected to be issued in February 1992.

Because of the campus-wide implications and the timelines for compliance, 10 higher education associations convened to prepare a joint advisory on the compliance and record-keeping procedures required.

This paper has been prepared to assist colleges and universities in responding to Title II — Crime Awareness and Campus Security. The information contained in this paper is not intended as legal advice and institutions are encouraged to consult competent counsel.

A representative list of other resources is also included.

The Student Right-to-Know and Campus Security Act represents a legislative "solution" to the perceived problem that some colleges and universities have been less than forthright about the crime risks which exist on campuses. This may be an unfair generalization since many campuses have been engaged in effective campus safety and security programs and have provided information to the FBI's Uniform Crime Reporting (UCR) system or state programs.

The law recognizes institutional autonomy in several important areas. Specifically, institutions are free to, and are encouraged to, establish their own security policies. Effective policies and judgments about the format of the required published security report, interpretation of data, and other institutional background information should be developed within the context of the institution's educational mission, philosophy, and the community environment.

We strongly encourage campuses to establish a campus-wide committee to review their security policies and emergency response procedures in the context of the new legal requirements. Headed by a senior administrator, the team should include representatives from a wide range of campus agencies. For example, many campuses will find it helpful to include representatives from campus safety and security, student affairs, admissions, legal counsel, university relations and public information, personnel, academic/faculty affairs, and student government.

If the campus does not currently use a campus-wide emergency response or management team, we urge institutions to consider forming such a team. Such a team could include representatives from the vice presidents for administration, student affairs, academic affairs, and public information; the director of security; and legal counsel. Both the campus security team and the smaller emergency response team should meet on a regular basis to review procedures and plan for emergency response. The new law imposes an important new requirement for timely notice of campus crimes. This group might be the appropriate one to confer and make judgments about how the campus will provide the required timely notice. (Timely notice is discussed in greater detail on pages 4-6.)

Campuses are urged to continue and enhance further their current safety and security education and awareness programs. In discussing safety awareness and crime prevention programs, the law suggests programs designed to "encourage students and employees to be responsible for their own security and the security of others."

The new law provides colleges and universities with an opportunity to review their campus security procedures and policies. Institutions are cautioned to review the requirements imposed by federal, state, and local laws, and to only promulgate policies and procedures which they are able to enforce.

Making the Law Work for You

The act requires each institution receiving Title IV student aid assistance to prepare and distribute an annual report which sets forth its policies on crime prevention issues and gives statistics on the number of specific crimes (murder, rape, robbery, aggravated assault, burglary, and motor vehicle

theft) which have occurred on campus and the number of arrests on campus for liquor law violations, drug abuse violations, and weapons possessions.

In addition to publishing crime statistics, the act requires colleges and universities to provide timely warnings to the campus community of certain crimes (murder, rape, robbery, aggravated assault, burglary, and motor vehicle theft) reported to campus security or local law enforcement which may be considered a threat to other students and employees.

Compliance Timetable

Effective immediately: Section 203 of the law amends Section 438(b) of the General Education Provisions Act (the Family Educational Rights and Privacy Act [FERPA], commonly referred to as the Buckley Amendment). This section mandates that nothing shall prohibit the alleged victims of violent crimes from knowing the results of campus disciplinary proceedings concerning the alleged perpetrators of those violent crimes. Such disclosure is not required, but administrators should consider the ramifications of either disclosure or nondisclosure of the results.

August 1, 1991: Higher education institutions must begin collecting specified information on campus crime statistics and campus security policies.

September 1, 1991: Institutions are required to make "timely reports to the campus community on crimes (murder, rape, robbery, aggravated assault, burglary, and motor vehicle theft as defined on pages 4 and 5) considered to be a threat to other students and employees and reported to campus security or local law police agencies." The information must be disseminated in a manner that will aid in the prevention of similar occurrences. Colleges and universities may want to review with counsel whether this provision may require additional care under state tort laws.

September 1, 1992, and each year thereafter: The college or university must publish and distribute through publications or mailings an annual report of campus security policies and crime statistics to all current students and employees; provide copies of the annual report to any applicant for enrollment or employment upon request; and, upon request, submit a copy of the annual report to the Secretary of Education. It is expected that the secretary will make this request once between now and 1995, when the secretary will make a report to the congressional education committees.

Note:

1. Definitions are based on the FBI's Uniform Crime Report (UCR).

Definitions

1. How is campus defined?

The law defines a campus to include: "(i) any building or property owned or controlled by the institution of higher education within the same reasonably contiguous geographic area and used by the institution in direct support of, or related to its educational purposes; or (ii) any building or property owned or controlled by student organizations recognized by the institution."

Branch campuses, schools, or divisions that are not within a reasonably contiguous geographic area are considered separate campuses for the reporting requirements.

In most cases, fraternity, sorority, and other organizational housing units will be considered part of the campus regardless of location and ownership. Other areas that may be included are recreation/camp sites, research facilities, teaching hospitals, and foreign campuses.

2. How are crimes covered by the act defined?

The law requires institutions to report information about the occurrences of the following crimes: murder, rape, robbery, aggravated assault, burglary, and motor vehicle theft.

While not defined in the law, we suggest that a crime is "reported" when a campus security/police officer investigating an incident determines that a crime has occurred or a local police agency notifies an institution that it has documented a report of a criminal offense which has occurred "on campus" as defined by this act.

For the purposes of the act, the offenses for which statistics must be reported are to be defined in accordance with the FBI's Uniform Crime Reporting (UCR) system, as modified by the Hate Crimes Statistics Act. The law does *not* require colleges and universities to participate in the UCR, only that the data must be compiled in a manner consistent with the UCR.

Definitions of crimes for which occurrences must be reported: *(see note 1)*

- murder: the willful (non-negligent) killing of one human being by another

■ rape: the carnal knowledge of a person forcibly and/or against that person's will, or not forcibly or against that person's will where the victim is incapable of giving consent because of his/her temporary or permanent mental or physical incapacity; or an attempt to commit rape by force or threat of force *(see note 2)*

■ robbery: the taking, or attempting to take, of anything of value under confrontational circumstances from the control, custody, or care of another person or persons by force or threat of force or violence and/or by putting the victim in fear of immediate harm

■ aggravated assault: an unlawful attack by one person upon another wherein the offender uses a weapon or displays it in a threatening manner, or the victim suffers obvious severe or aggravated bodily injury involving apparent broken bones, loss of teeth, possible internal injury, severe laceration, or loss of consciousness. Note that an unsuccessful attempt to commit murder would be classified as an aggravated assault

■ burglary (breaking and entering): the unlawful entry into a building or other structure with the intent to commit a felony or a theft. Note that forced entry is not a required element of the offense, so long as the entry is unlawful (constituting a trespass) it may be accomplished via an unlocked door or window. Included are unsuccessful attempts where force is employed, or where a perpetrator is frightened off while entering an unlocked door or climbing through an open window

■ motor vehicle theft: the theft or attempted theft of a motor vehicle

Institutions must also report the number of *arrests* for the following crimes that occur on campus: liquor law violations, drug abuse violations, and weapons possessions. An "arrest" has occurred when a law enforcement officer has detained an individual with the intention of seeking charges against the person for a specific offense(s) and a record is made of the detention (Tuttle, 1991a).

Definitions of crimes for which arrests must be reported *(see note 1, page 4)*:

■ liquor law violations: violations of laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession or use of alcoholic beverages (with the exception of "driving under the influence" or "drunkenness")

■ drug abuse violations: violations of laws prohibiting the production, distribution, and/or use of certain controlled substances and the equipment or devices utilized in their preparation or use

■ weapons possessions: violations of laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession, concealment, or use of firearms, cutting instruments, explosives, incendiary devices, or other deadly weapons.

3. How should students be defined?

While not defined in the law, we are suggesting that students are all persons who are registered during the current semester to take at least one course for credit.

4. How should employees be defined?

While not defined in the law, we are suggesting that employees are full-time and part-time employees of the institution with regularly scheduled hours of employment.

Frequently Asked Questions

1. When should the timely reports on crimes considered a threat to other students and employees be disseminated?

This requirement imposes an important new responsibility for colleges and universities. There is a need to make prompt decisions about when and how to disseminate timely warnings after one of the six specified crimes occurs on campus. Campuses may wish to designate a senior administrator with the ultimate responsibility for this action. The purpose of the reports is to aid in the prevention of similar occurrences. Campuses should, therefore, make a determination about the likelihood of the incident posing a threat to others when choosing an immediate and/or personal notification or a more general warning using bulletin boards, campus news media, flyers, or other announcements/forums.

Note:

2. In the case of rape, we are recommending that the definition used be consistent with the National Incident-Based Reporting System (NIBRS) definition. For a complete discussion of the UCR and NIBRS system and suggestions for record keeping, see Tuttle (1991a).

2. How should the timely reports on crimes considered a threat to other students and employees be disseminated?

In determining how to inform students and employees about incidents, campuses are urged to consider the likelihood that the incident poses a threat to other individuals. Campuses should review and determine the effectiveness of current approaches. The following is a list of possible ways of communicating with the campus community: press releases for campus and local press, radio, television, and other media; special notices through residence hall staff; dining hall/cafeteria table tents; notices included with pay checks; faculty/staff newsletters; posted notices (posters, computer bulletin boards and electronic mail, athletic score boards); or individually addressed correspondence.

It is advisable to document the notification procedures used to alert members of the campus community about incidents.

3. What information is to be included in the annual security report?

Two types of information must be distributed to all current students and employees and upon request to applicants for enrollment or employment. They are: (1) descriptions of policies related to campus security; and (2) statistics concerning specific crimes reported to campus security authorities or local police agencies.

4. What policy information must be collected and disseminated?

Although it is not clear, the law does not seem to require that the entire verbatim text of the covered policies be included in the annual reports, but rather summaries of the following policies:

- procedures and facilities for reporting crimes and other emergencies and the institution's response to those reports, and policies which encourage accurate and prompt reporting of crimes to campus/local police

Examples might include: the availability of campus security, the existence of a network of emergency telephones, publication and promotion of emergency phone numbers, or orientation programs.

- campus facility access and security policies, and security considerations related to maintenance programs

Examples might include: policies governing access to academic buildings, residence halls, fraternities and sororities, and other facilities and the procedure for inspecting campus lighting, shrubbery.

- law enforcement (arrest) authority of campus security personnel, and interagency relationships (including the policy concerning the monitoring and recording by local police of crimes at off-campus student organizations)

Examples might include: does campus security have law enforcement authority? What is the nature of the working relationship between campus security and local law enforcement agencies?

- a statement of policies regarding alcohol and drugs and a description of any drug or alcohol education programs

This section will require the institution to summarize or reference the information already required by the Drug-Free Schools and Communities Act.

- descriptions of "security awareness" and crime prevention programs

This section requires a description of the type and frequency of programs designed to inform students and employees about campus security procedures and practices and to encourage students and employees to be responsible for their own security and the security of others. This description should include reference to the manner in which the campus provides the "timely notice" of violent crimes reported to campus or local police to aid in the prevention of similar occurrences. Institutions are encouraged to specify that such action will depend on the particular circumstances of the crime.

Examples might include: orientation programs, residence hall education programs, campus safety awareness programs, and employee training and handbooks.

5. What statistical information must be collected and disseminated?

Institutions must report, for the most recent calendar year and the two preceding calendar years for which data are available, the number of occurrences on campus of the following criminal offenses reported to campus security authorities or local police agencies: murder, rape, robbery, aggravated assault, burglary, and motor vehicle theft, and the number of arrests for the following crimes that occur on campus: liquor law violations, drug abuse violations, and weapons possessions. (See pages 4 and 5 for definitions of the crimes.)

6. How can campus security personnel collect data on crimes committed outside their jurisdiction?

The greatest difficulty in collecting statistics will arise in circumstances where crimes occur or arrests are made by municipal police at on-campus locations. Accurate reporting will depend on the cooperation of the local police force(s). It is generally recognized that the nature of the relationships between campus security and local law enforcement will vary depending on the nature of the community. For example, it may be very costly and time consuming for a large, urban, metropolitan police department to provide crime report information to the multiple college and university campuses located within its jurisdiction. Campuses should anticipate the difficulties in securing this information and consult with local police about the most effective way to obtain the information. Campuses should make a reasonable effort to secure this information.

7. Who should prepare the annual security report?

This is a policy matter to be determined by the campus administration. Campuses are urged to have the draft report reviewed by the campus emergency response/management team or other campus-wide group to ensure that the information is current, accurate, and presented in a readily understandable format.

8. How should the annual security report be disseminated?

Institutions will prepare, publish, and distribute the required information through appropriate publications or mailings.

The institution has flexibility in determining the publication media, so long as the information required in the annual security report appears in a single special-purpose document or within the same section of a larger publication and the documents are prepared and distributed annually.

9. When should the annual security report be disseminated?

The first report must be disseminated September 1, 1992, and every year thereafter. It is our understanding that the report would cover the 12-month period between August 1 and July 31 of each year. This matter may be clarified by the U.S. Department of Education in one of the 'Dear Colleague' letters or in the final regulations.

10. What are the implications of the federal law on states that have also passed laws which require reporting?

It is important to note that (with the exception of the Massachusetts law which becomes "null and void" upon the implementation of the federal act), the Crime Awareness and Campus Security Act does not supersede state campus crime disclosure laws. Institutions located within the 11 states which have enacted their own reporting requirements face an additional challenge of meeting the frequently conflicting standards of state and federal laws without creating multiple reports or publications.

11. What are the implications for institutions with campuses abroad?

Representatives of the U.S. Department of Education have indicated that foreign campuses may be considered to be a branch campus. They refer to the February 11, 1991, 'Dear Colleague' letter providing additional guidance on similar issues arising under the Drug-Free Schools and Communities Act.

12. How will colleges and universities be asked to certify compliance?

Representatives of the U.S. Department of Education will send two 'Dear Colleague' letters. The first letter has already been sent and the second one should be mailed in late spring. Colleges and universities will receive a new Program Participation Agreement from the Division of Certification and Eligibility in July 1991.

13. Should colleges and universities expect additional changes in the law?

Changes and additions to the law are always possible. Technical amendments have already been approved and new legislation has been introduced which would modify the list of crime statistics which must be included in an institution's annual security report.

Colleges and universities will need to review the legislative changes periodically to ensure compliance.

Other Resources

Note: The publications listed below are available from the publisher or author listed, not the NASPA office.

American Council on Education. (1985). *Achieving Reasonable Campus Security. Self-Regulation Initiatives: Resource Documents for Colleges and Universities* (No. 2). Washington, D.C.: Author.

Bromley, M., & Territo, L. (1990). *College Crime Prevention and Personal Safety Awareness.* Springfield, IL: Charles C. Thomas.

Burling, P. (1991). *Crime on Campus: Analyzing and Managing the Increasing Risk of Institutional Liability.* Washington, D.C.: National Association of College & University Attorneys.

Council for Advancement & Support of Education. (1990). *Crime Incidents on Campus. A CASE Issues Paper for Communications Professionals* No. 3. Washington, D.C.: Author.

Federal Bureau of Investigation. *Uniform Crime Reporting: National Incident-Based Reporting System — Volume 1: Data Collection Guidelines; Volume 2: Data Submission Specifications; Volume 3: Approaches to Implementing an Incident-Based Reporting (IBR) System.* Washington, D.C.: Author.

National Association of College and University Business Officers. (1991). *Student Right-To-Know and Campus Security Act Passed. Advisory Report 91-1.* Washington, D.C.: Author.

National Association of Student Personnel Administrators. (1989). *Preliminary Report of National Task Group to Examine Issues of Campus Safety & Security.* Washington, D.C.: Author.

Nichols, D. (Ed.) (1987). *The Administration of Public Safety in Higher Education.* Springfield, IL: Charles C. Thomas.

Sherrill, J.M., & Siegel, D.G. (1989). Responding to Violence on Campus. *New Directions for Student Services,* (47). San Francisco: Jossey-Bass, Inc.

Smith, M.C. (1988). *Coping with Crime on Campus.* Washington, D.C.: ACE/MacMillian Publishing Co.

Smith, M.C., & Smith M.D. (1990). *Wide Awake: A Student's Handbook for Coping with Crime on Campus.* Princeton, NJ: Peterson's Guides.

Tuttle, D.F. (1991a). *The Crime Awareness & Campus Security Act of 1990: Strategies for Compliance.* Hartford: International Association of Campus Law Enforcement Administrators.

Tuttle, D.F. (1991b). "Campus Crime Disclosure Legislation." *Campus Law Enforcement Journal* 21(1), 19-21.

United Educators Insurance Risk Retention Group (1990). *Responding to Campus Crime: A Guide for Administrators.* Chevy Chase, MD: Author.